(1) SINGLE BENCH C.G. 15/-

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

WRIT PETITION NO. 5519 OF 2005

PETITIONER : Mohanlal @ Jitendra Kumar, son of Late Tulsidas, aged about 55 years, resident of Priyadarshini Nagar, In-front of Jagannath Temple, Raipur, Tehsil & District Raipur (C.G.)

(Defendant No.1)

Vs

RESPONDENTS : 1. Smt. Chandra Bai, widow of Late Harilal Chhiyani, aged about 65 years, resident of Shyam Nagar Road, Behind Nursing Home of Dr. Rawlani, Katora Talab, Raipur through Power of Attorney holder Shri Harish Sadhwani, son of Shri Shyamlal Sadhwani, aged about 33 years, resident of Shyam Nagar Road, Raipur, Tehsil & District Raipur (C.G.).

(Plaintiff)

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Defendant No.2

2. State of Chhattisgarh, through the Collector, Korba, Tehsil & District Korba (C.G.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, 1950.

1. PARTICULARS

(42)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

WRIT PETITION NO.5519 OF 2005

Mohanlal @ Jitendra Kumar

Versus

Smt. Chandra Bai and another.

Present: Mr. Shree Kumar Agrawal, Sr. Advocate, with Mr. Anand Gupta, learned counsel for the petitioner.

ORAL ORDER
(Passed on 21ST November 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ: -

In a suit for declaration and permanent injunction instituted by the respondent-plaintiff herein, the trial Court has granted temporary injunction restraining the petitioner herein from alienating the suit schedule property. When that order was called in question in an appeal, the appellate Court too has affirmed the order of the learned trial Judge dismissing the appeal preferred by the petitioner herein. Hence, this writ petition under Article 227 of the Constitution of India assailing the correctness of the order made by the learned trial Judge as affirmed by the learned appellate Judge.

2. I have heard Mr. Shree Kumar Agrawal, Sr. Advocate, assisted by Mr. Anand Gupta learned counsel for the petitioner.

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3. Learned counsel for the petitioner would contend that the petitioner is holding a registered sale deed as per which the suit schedule property belongs to and owned by the petitioner and as against this piece of evidence, there is no acceptable legal evidence to establish any legal right in the plaintiff-respondent with regard to the suit schedule property and therefore, the learned trial Judge has not properly and judiciously exercised discretion vested in him. It is of utmost importance that in a pending suit, the Court should maintain status-quo. Since the suit filed by the respondent-plaintiff for declaration and permanent injunction is pending, it is but proper that the status-quo that obtained as on the date of the institution of the suit should be maintained. If the petitioner is permitted to alienate the suit schedule property and ultimately the plaintiff-respondent succeeds in the suit, it would result in complications and avoidable unnecessary litigations. Therefore, no exception could be taken to the discretion exercised by the learned trial Judge. The writ petition is, therefore, dismissed, however, with no costs.

Sd/-
Chief Justice

Brajesh*